

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEPHEN GANNON, *individually and on behalf of all others similarly situated,* :  
Plaintiff, : 22-CV-1650 (JMF)  
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-v-

ORDER

HUA DA INC. et al.,

Defendants.

HUA DA INC.,

Third-Party Plaintiff,

-v-

NISHWAN ALI ALABELI,

Third-Party Defendant.

JESSE M. FURMAN, United States District Judge:

On October 4, 2022, Defendant Big Famous 1 Deli & Grocery, Inc. (“Big Famous”) filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that Plaintiff shall file any amended complaint by **October 25, 2022**. Pursuant to Paragraph 1.B. of the Court’s Individual Rules and Practices in Civil Cases, available at <https://nysd.uscourts.gov/hon-jesse-m-furman>, any amended complaint should be filed with a redline showing all differences between the original and revised filing. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, Big Famous shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that it relies on the previously filed motion to dismiss. If Defendant files an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot. If Defendant files a new motion to dismiss, any opposition shall be filed within fourteen days, and any reply shall be filed within seven days of any opposition.

If no amended complaint is filed, Plaintiff shall file any opposition to the motion to dismiss by **October 25, 2022**. Big Famous's reply, if any, shall be filed by **November 1, 2022**.

SO ORDERED.

Dated: October 6, 2022  
New York, New York



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JESSE M. FURMAN  
United States District Judge